

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.301 of 2018

Arising Out of PS. Case No.-231 Year-1991 Thana- MIRGANJ District- Gopalganj

Bikrama Chaudhary @ Bikrama Yadav Son of Dina Nath Chaudhary Resident
of Village- Balesara, P.S. Uchakagaon, District- Gopalganj.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Sinha with Mr. Javed Aslam, Advocates
For the State	:	Mr. Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-07-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. The present application has been filed under Sections 397 and 401 of the Code of Criminal procedure, 1973 for setting aside the judgment and order dated 14.11.2016 passed in Criminal Appeal No. 16 of 1999 (CIS No. 86 of 2014) by the Additional Sessions Judge VIII, Gopalganj dismissing the appeal filed against the judgment and order of conviction and sentence dated 17.04.1999 passed by the SDJM, Gopalganj in G.R. No. 1804 of 1991/Tr. No. 198 of 1999 arising out of Mirganj PS Case No. 231 of 1991.

3. The FIR filed by the informant was against the unknown. However, during investigation, the police had



apprehended two persons, who were identified by the informant in Test Identification (TI) Parade. Upon trial, the petitioner was convicted under Section 392 of the Indian Penal Code and sentenced to undergo three years rigorous imprisonment.

4. Learned counsel for the petitioner submitted that the informant and the puller of the rickshaw on which he was travelling were witness to the crime and such rickshawpuller not identifying the petitioner raises doubt about his complicity. It was further submitted that at 8:30 PM the presence of light by which any person could have been identified not having been stated by the informant, such identification becomes doubtful. Learned counsel submitted that even the Investigating Officer of the case has not been examined by the Court and only the person who had submitted charge sheet was examined.

5. Learned APP, upon going through the Lower Court Records, submitted that the informant having no enmity with the petitioner having identified him is sufficient for conviction. It was further submitted that 8:30 at night it is not stated that the petitioner was moving on a dark road and on the contrary it has been stated that when he crossed the railway crossing the incident occurred. Thus, it was submitted that the said place obviously would have sufficient light and moreover the



recognition/identification of the person who had come in close proximity with the informant to take away his belongings would obviously put him in a position to identify him.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application.

7. Both the orders of the Trial Court as well as the Appellate Court are well discussed and based on cogent reasoning and the view taken by the Courts is a plausible view. Thus, the same do not warrant any interference.

8. Accordingly, the application stands dismissed.

9. The Lower Court Records be returned forthwith.

10. The bail bonds of the petitioner stand cancelled. He is directed to surrender before the Court below latest within two weeks from today, failing which the Court below shall exercise all powers available to it, in accordance with law, and ensure that the petitioner is taken into custody to serve the remaining period of his sentence.

(Ahsanuddin Amanullah, J)

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